

REMARKS

A. POTENTIAL ALLOWABILITY OF CLAIMS 3, 8-15, 61 and 62

The Examiner's comments regarding the potential allowability of claims 3, 8-15, 61 and 62 are gratefully acknowledged. However, in view of the remarks made herein below, an amendment to render claims 3, 8-15, 61 and 62 independent is not deemed necessary at this time.

B. REJECTION OF CLAIMS 1, 6, 52, 53 AND 56-59 UNDER 35 U.S.C. 103

On page 2 of the Office Action, the Examiner has rejected claims 1, 6, 52, 53 and 56-59 under 35 U.S.C. 103(a) as being unpatentable over Petrunka *et al.*, U.S. Patent 5,991,369 (hereinafter referred to as Petrunka) in view of Bartholomew *et al.* U.S. Patent 6,215,858 (hereinafter referred to as Bartholomew). Applicant respectfully disagrees.

Claim 1

The Examiner compares the claimed "call set-up message" with step 434 of Fig. 4 of Petrunka, by virtue of which the "DA database 34 then transmits the listed party's non-published number, the direct voice mail box system number, and caller 30's phone number through the Operator Service Switch 32 to services computer 36 (step 434)" (see Petrunka, col. 4, lines 10-14). Recognizing that Petrunka does not teach the claimed message format (*i.e.*, "a format reserved for a redirected call set-up message issued by a service switching point in response to an uncompleted call to the service subscriber"), the Examiner turns to Bartholomew to remedy this deficiency.

However, Bartholomew is little more than a generic reference regarding the SS7 protocol. While Bartholomew alludes to call set-up messages in col. 14, line 40, there is no specific discussion in Bartholomew of a call set-up message having a format

reserved for a redirected call set-up message issued by a service switching point in response to an uncompleted call to the service subscriber. The passage of Bartholomew cited by the Examiner (namely, col. 17, lines 1-25), as well as other passages of Bartholomew dealing with direct access to voice mail (col. 28, lines 19-39) do not provide insight into this question, since they offer, at most, a high-level discussion of the manner in which dialed or forwarded calls are handled at a voice mail system 120. Thus, it is respectfully submitted that Bartholomew is as deficient as Petrunka in failing to teach or suggest a call set-up message having a format reserved for a redirected call set-up message issued by a service switching point in response to an uncompleted call to the service subscriber.

Notwithstanding the above, it is useful to consider what would happen if, as the Examiner is trying to suggest, one combines Petrunka with an alleged teaching of a call set-up message having a format reserved for a redirected call set-up message issued by a service switching point in response to an uncompleted call to the service subscriber. Specifically, assume that the call set-up message transmitted by the DA database 34 in Petrunka is indeed a call set-up message having a format reserved for a redirected call set-up message issued by a service switching point in response to an uncompleted call to the service subscriber. Upon receipt of such a call set-up message having the stated format, the Operator Services Switch 32 would be compelled to send the call set-up message towards the voice mail system 39, and **not** towards the services computer 36. Further access to the voice mail system 39 would subsequently be compromised because of a lack of “necessary access information, such as a password”, ordinarily provided by the services computer 36 (see Petrunka, col. 4, lines 31-33). Additionally, because the services computer 36 would no longer receive the message that it is ordinarily supposed to receive, it would not be able to perform at least one remaining function, *viz.*, “monitoring the length of the call [...] to guard against fraudulent use of the system” (see col. 4, lines 46-50).

Therefore, it is clear that the incorporation of Bartholomew’s teachings into Petrunka does not bring the result any closer to the claimed invention, and that even if a prior art reference were alleged to show the existence of a call set-up message having a format reserved for a redirected call set-up message issued by a service switching

point in response to an uncompleted call to the service subscriber, it would become impossible for a caller to leave a voice mail message in the manner intended by Petrunka. Because the purpose of Petrunka is in effect defeated by following the suggestions of the Examiner, Applicant respectfully submits that there cannot be a reasonable expectation of success. As such, it is respectfully submitted that the Examiner has failed to establish a *prima facie* case of obviousness¹.

In view of the above, it is believed that claim 1 is in condition for allowance and the Examiner is respectfully requested to withdraw the rejection of claim 1.

Claims 6 and 52

These claims include language similar to that of claim 1 and therefore the Examiner is referred to the above arguments in support of claim 1. As such, it is believed that claims 6 and 52 are in condition for allowance and the Examiner is respectfully requested to withdraw the rejection of claims 6 and 52.

Claims 53 and 56-59

These claims are all dependent on claim 52 which, as stated above, is believed to be in condition for allowance. As such, the Examiner is respectfully requested to withdraw the rejection of claims 53 and 56-59.

C. REJECTION OF CLAIMS 2, 4, 7 AND 60 UNDER 35 U.S.C. 103

On page 6 of the Office Action, the Examiner has rejected claims 2, 4, 7 and 60 under 35 U.S.C. 103(a) as being unpatentable over Petrunka combined with Bartholomew in further view of Applicant's Admitted Prior Art. Applicant respectfully disagrees.

¹ For the Examiner to establish a *prima facie* case of obviousness, three criteria must be considered: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings, (2) there must be a

As set forth herein above, one skilled in the art would not reasonably expect that Bartholomew could be successfully incorporated into Petrunka to arrive at the claimed invention. In addition, it is respectfully submitted that there is nothing in Applicant's application to suggest otherwise. Moreover, since claims 2, 4, 7 and 60 are all dependent on at least one claim that has been argued as being allowable, it is believed that claims 2, 4, 6 and 60 are also in condition for allowance and the Examiner is respectfully requested to withdraw the rejection of claims 2, 4, 7 and 60.

D. REJECTION OF CLAIM 54 UNDER 35 U.S.C. 103

On page 8 of the Office Action, the Examiner has rejected claim 54 under 35 U.S.C. 103(a) as being unpatentable over Petrunka combined with Bartholomew in further view of Tov *et al.*, U.S. Patent Application Publication No. 2002/0152402 (hereinafter referred to as Tov).

As set forth herein above, one skilled in the art would not reasonably expect that Bartholomew could be successfully incorporated into Petrunka to arrive at the claimed invention. In addition, it is respectfully submitted that there is nothing in Tov to suggest otherwise, as Tov merely teaches a method to allow Internet service subscribers to expose a person-specific personalization to their "visitor Web pages". Moreover, since claim 54 is dependent on a claim that has been argued as being allowable, it is believed that claim 54 is also in condition for allowance and the Examiner is respectfully requested to withdraw the rejection of claim 54.

E. REJECTION OF CLAIM 5 UNDER 35 U.S.C. 103

On page 8 of the Office Action, the Examiner has rejected claim 5 under 35 U.S.C. 103(a) as being unpatentable over Petrunka combined with Bartholomew in further view of Russell, Travis, *Signaling System #7* (hereinafter referred to as Russell).

reasonable expectation of success, and (3) the prior art references must teach or suggest all of the claim limitations. MPEP §§ 706.02(j), 2142 (8th ed.).

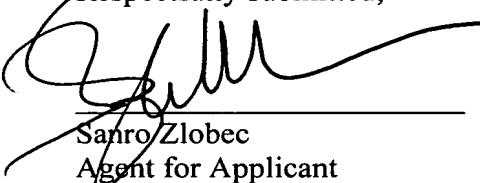
As set forth herein above, one skilled in the art would not reasonably expect that Bartholomew could be successfully incorporated into Petrunka to arrive at the claimed invention. In addition, it is respectfully submitted that there is nothing in Russell to suggest otherwise, as Russell deals merely with the SS7 protocol. Moreover, since claim 5 is dependent on a claim that has been argued as being allowable, it is believed that claim 5 is also in condition for allowance and the Examiner is respectfully requested to withdraw the rejection of claim 5.

CONCLUSION

In view of the foregoing, Applicant is of the view that claims 1-15, 52-54 and 56-62 are in allowable form. Favourable reconsideration is requested. Early allowance of the Application is earnestly solicited.

If the application is not considered to be in full condition for allowance, for any reason, the Applicant respectfully requests the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP 707.07(j) or in making constructive suggestions pursuant to MPEP 706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,



Sanro Zlobec
Agent for Applicant
Reg. No. 52,535

Date: September 20, 2006

SMART & BIGGAR
1000 De La Gauchetière Street West
Suite 3300
Montreal, Quebec H3B 4W5
CANADA
Telephone: (514) 954-1500
Facsimile: (514) 954-1396